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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

The Establishment of Commission Rules  
concerning the Administration of  
Accounting Authorities in the Maritime  
Mobile and the Maritime Mobile-  
Satellite Radio Services Except for  
Distress and Safety Communications

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MD Docket No. 93-297

To: The Commission

COMMENTS OF COMSAT CORPORATION

COMSAT Corporation

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## SUMMARY

COMSAT Corporation ("COMSAT"), through its COMSAT Mobile Communications division, offers its comments in support of the Commission's proposed rules to establish regulations governing the licensing and operations of U.S. accounting authorities which will maintain maritime mobile-satellite accounts for U.S. registered vessels. In our Comments, we urge the Commission to modify several of its proposed rules to clarify the responsibilities of U.S. accounting authorities and strengthen the international settlement process. In particular, COMSAT recommends that the Commission consider stricter financial standards for applicants and licensees and that it expedite the time frame for completing the settlement operation to be consistent with sound commercial practices. We also make specific suggestions for further clarification of the eligibility standards, application procedures, reporting obligations and enforcement mechanisms proposed by the Commission. Our comments reflect the concern that the accounting authority function should keep pace with technological and commercial developments in the marketplace.

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COMSAT Corporation ("COMSAT"), through its COMSAT Mobile Communications division, hereby submits its comments on the above-captioned Notice of Proposed Rulemaking ("NPRM") released December 17, 1993, seeking to establish regulations for the administration of accounting authorities in the maritime mobile and maritime mobile-satellite radio services.<sup>1</sup>

COMSAT supports the Commission's efforts in this proceeding to adopt regulations governing the licensing and operations of U.S. accounting authorities which maintain maritime radio accounts for U.S. vessels operating in international waters. As the U.S. Signatory to Inmarsat and a major provider of maritime mobile-satellite service, COMSAT is well aware of the issues and procedures involved in the international accounting authority process. The Commission's proposals go a long way towards clarifying the responsibilities of U.S. accounting authorities

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<sup>1</sup>Notice of Proposed Rulemaking, MD Docket No. 93-297, released December 17, 1993 ("NPRM").

and should help to strengthen the international settlement process. Nonetheless, COMSAT is concerned that the current international accounting authority structure has not kept pace with technology and urges the Commission to consider more stringent eligibility and operational standards and more flexible billing practices than what is proposed, in order to protect the integrity of the relationship between maritime mobile satellite users and service providers.

### **INTRODUCTION**

Accounting authorities have served an important function in the maritime industry for many years. In recognition of this fact, and because the Commission has never before adopted rules governing accounting authorities, the Commission opens the NPRM with a lengthy description of the historical development of the accounting authority function in the settlement of international telecommunications charges. This discussion is significant because it emphasizes the extent to which the accounting authority structure is tied to the past -- rather than being a visionary blueprint for the future.

Historically, the accounting authority served a vital function for ships which spent long periods of time at sea traveling between foreign ports and incurring considerable expenses along the way. With no direct communications link to the ships, accounting authorities collected and paid all types of commercial accounts for their seafaring customers. When radio-

based communications systems were first introduced on board ship in the early 1900's, organizations selling equipment to the shipowner also provided trained radio operators to operate the equipment and served as accounting authorities to pay the bills for communications and other services after verifying such bills to the radio officer's log.

Today, with improvements in maritime communications technology, ships function as subscribers for communications services, rather than as telecommunications entities unto themselves. Thus, the only real function remaining for accounting authorities is the settlement of maritime telecommunications charges. But in this age of instant credit and global end-to-end communications capability, the accounting authority function has not kept pace with technology.

As a middleman between the ship and the telecommunications service provider, the accounting authority adds cost to the service connection, levying surcharges from five to twenty percent. Under existing regulations, accounting authorities will take four to six months to invoice service charges and may take even more time to pay service providers for amounts owed. This delay results in a difficult and costly problem for service providers as protracted billing and settlement procedures prevent effective and timely action against fraud and debt collection problems. In the face of increasing fraud and problems with debt collection, some accounting authorities are even attempting to disclaim any obligation to guaranty payment.

As telecommunications technology advances and maritime terminals, such as the Inmarsat-M and Mini-M terminals, become more compact and affordable for usage on small craft, increasing numbers of new users will enter the international maritime communications market. Even more customers will dial up for service when handheld mobile satellite services become available in the next few years. These new users will have little appreciation for the historical role played by accounting authorities, but their presence will put tremendous strain on the settlement function.

With the increase in the customer base for maritime communications services, international maritime service providers are looking increasingly to accounting authorities for help in assuring the credit worthiness of their customers and prompt payment for services rendered. In the maritime mobile-satellite service industry, service providers are not able to check the credit worthiness of potential customers in every case. In many cases, existing procedures limit disclosure of customer information to accounting authorities. One way to lessen the financial burden on maritime service providers is to strengthen the accounting authority function by ensuring that the accounting authority is a guarantor of payment. As an alternative solution, service providers may seek to establish direct billing arrangements with their customers to perform their own credit checks and debt collection services and expedite payment.

For these reasons, COMSAT urges the Commission, as it

considers the proposals before it in this proceeding, to ensure that the accounting authority structure it adopts will add value to the settlement process and keep pace with technological and commercial marketplace developments. COMSAT believes that the proposals adopted by the Commission should be forward looking and that the Commission's pronouncements in this docket should serve as a vision for the future -- providing a road map for the direction the mobile communications industry should take as it moves into the 21st century.

## **DISCUSSION**

### **I. Eligibility Requirements and Application Procedures**

In the NPRM, the Commission proposes various rules setting forth the basic qualifications and application filing requirements for accounting authorities. While COMSAT supports many of these proposals, we believe that some clarification is necessary. In particular, COMSAT believes the Commission should modify or clarify its proposed rules for: first-come first-served processing, evidence of financial responsibility, denial of the accounting authority privilege, and the time frames for commenting on and amending applications.

Pursuant to international regulations, the Commission may establish up to twenty-five accounting authorities to settle accounts for U.S. licensed vessels. At present, the Commission has assigned identification codes to fifteen accounting authorities. One code, US01, is assigned to the Commission's



International Telecommunications Settlements ("ITS") Section. In addition, the Commission has authorized seven U.S.-based and seven foreign-based accounting authorities on an interim basis over the past twelve years.

In the NPRM, the Commission proposes to accept applications on a first-come first-served basis. NPRM, Appendix I, Section 3.21(a). However, the Commission also proposes to "grandfather" the existing fourteen interim accounting authorities, "so long as they are otherwise qualified and follow the procedures established by the rule to obtain permanent accounting authority authorizations." NPRM at para. 20. From this discussion it is unclear how the "grandfathered" applications will participate in the licensing process. It is possible that the applications of interim accounting authorities will move to the head of the processing line and effectively limit the number of new entrants able to receive certification from twenty-four to ten.<sup>2</sup>

While COMSAT agrees that prior experience as an accounting authority should be considered, COMSAT does not believe the public interest will be served by limiting the number of new applicants. All applicants for certification should have an equal opportunity to apply for an accounting authority authorization and should be subject to same application

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<sup>2</sup>The NPRM indicates that "grandfathered" applicants will have 60 days from the effective date of the rules to file their applications, but there is no mention of the triggering date for filing all other applications subject to the first-come first-served filing procedure. See NPRM at para. 20.

procedures and the same level of scrutiny by the Commission and the public.

Under the proposed rules, the Commission requires all applicants to provide "evidence" of financial responsibility. NPRM, Appendix I, Section 3.24. The applicant's demonstration of financial responsibility is undoubtedly the most critical qualification of the accounting authority function. In the NPRM, the Commission proposes only that applicants demonstrate a "sound financial status" and requests comment on how this standard might be implemented. To strengthen this standard, we believe that all accounting authorities, whether U.S. or foreign, should be subject to fairly strict financial requirements.

One way to ensure the financial soundness of accounting authorities would be to require that they post a bond of a certain amount to demonstrate their viability and offer protection to creditors. Another option would be to require that accounting authorities demonstrate, and maintain, an asset value of a certain percentage (e.g. 15-25%) in relation to outstanding debts. Similar standards are maintained under federal banking regulations to protect the accounts in the banks' portfolios. A further option would be to require accounting authorities to put deposits in escrow, as is the practice with real estate agents and attorneys who are charged with handling funds ultimately to be paid over to a third party. Other possible financial standards include dollar requirements for cash-on-hand amounts and limits on the number of outstanding loans and the amount of

risk undertaken. In addition, the Commission may want to consider requiring accounting authorities to take deposits from customers under certain circumstances.

At the very least, COMSAT believes that the Commission should revise and clarify its requirement in Rule Section 3.24 for the submission of "formal" financial statements. As an alternative, the Commission should require the initial (and annual) submission of independently "audited financial statements" certified within a reasonable period of time prior to filing, accompanied by a current balance sheet and a certification by the applicant attesting to the validity of the unaudited balance sheet. Similar rules were adopted in the rural cellular radio service to strengthen the financial demonstration required by applicants relying on personal or internal corporate lending sources. See 47 C.F.R. S 22.917(c)(6). The adoption of more stringent standards for financial responsibility will help to clarify the grounds for denial, as well as the grant, of the accounting authority privilege and will ensure the financial soundness of the accounting authority function.

COMSAT notes that the accounting authority privilege may be denied on several grounds, including the failure to evidence financial responsibility and the failure to provide evidence that the accounting authority either will conduct operations in the United States or already possesses an AAIC issued by another country. NPRM, Appendix I, Section 3.28. Unlike the proposed rules regarding financial responsibility, there is no

corresponding rule section providing the standard of evidence for establishing that an accounting authority will conduct operations in the United States. All that is required on the proposed application form appended to the NPRM is that the applicant state the address where settlements are to be processed. See NPRM, Application Form 44. Evidence of location of settlement operations could be provided through the submission of partnership or corporate documents demonstrating where the company intends to do business. Such information would demonstrate also that the accounting authority is in good standing and properly qualified to do business in the jurisdiction.

COMSAT also urges the Commission to clarify the regulations for amending pending applications and for requesting public comment. In proposed Rule Section 3.27, the Commission requests that amendments to pending applications of a "material nature" be mailed "immediately" to the Commission. COMSAT requests that the Commission provide examples of material changes and specify a time period, such as thirty days, for providing the amended information to the Commission to ensure prompt and full compliance with this rule.

Similar clarification is needed in Section 3.29(a), in which the Commission proposes to consider "informal public comment" before granting certification to an accounting authority. Because of the significance of the settlement function and the need for financial soundness, COMSAT submits that accounting

authorities should be subject to petitions to deny filed within thirty days of the public notice identifying the applicant. A reasonable period also should be allowed for oppositions and replies. Such procedures will help to ensure the openness and fairness of public debate on whether the qualifications of applicants for the accounting authority privilege meet the standards ultimately adopted by the Commission.

## **II. Settlement Operations and Reporting Requirements**

As COMSAT indicated above, the current international settlement process permits considerable delay in the payment of accounts. The proposed rules adopt the current international settlement framework. See NPRM, Appendix I, Section 3.43. The rules simply require "timely" payment of all valid amounts owed to foreign administrations pursuant to Article 66 of the Radio Regulations of the International Telecommunication Union ("ITU"). NPRM, Appendix I, Section 3.44. Article 66 provides that a settlement authority has up to six months to settle accounts.

COMSAT urges the Commission to consider expediting the settlement procedures down to four months, or shorter, to be consistent with good commercial practices.<sup>3</sup> There is no legal or logical reason with today's communication and credit infrastructures why accounting authorities require six months to

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<sup>3</sup>Recommendation D.90 of the International Telephone and Telegraph Consultative Committee ("CCITT"), dealing with charging and accounting functions in settlement operations, recommends a four-month settlement period.

settle their accounts. The practical effect of shortening the settlement period would be that foreign administrations would receive payment more quickly from U.S. authorized accounting authorities. Adoption of such a forward looking standard in the United States also is likely to encourage other administrations to follow suit, resulting in faster payment to service providers worldwide and increased momentum to change the ITU Regulations.

In order to streamline the settlement function even further, COMSAT suggests that the Commission consider permitting maritime customers to select direct billing payment methods from their service providers. Article 66 provides that "[c]harges for radiocommunications from ship to shore shall in principle, and subject to national law and practice be collected from the maritime mobile station licensee" by one of three entities, including "a recognized private operating agency." See NPRM at para. 9 (emphasis is added). Under the Commission's proposed rules, a recognized private operating agency ("RPOA") may be a company, other than a government or agency, which "operate[s] telecommunications installations or provide[s] telecommunications services intended for international use." NPRM, Appendix I, Section 3.2(q). In order for RPOAs to settle accounts with foreign administrations on behalf of their customers, the Commission requires that the service provider be certified as an accounting authority. If a service provider can be an RPOA/accounting authority, then there is no reason to preclude the direct billing option, which in turn should pressure

accounting authorities to add value or lose the customer's account.

COMSAT notes with approval the proposed requirement in Section 3.44 that accounting authorities are "deemed to be responsible" for paying all valid amounts due to a foreign administration in a timely manner. This provision, in conjunction with Section 3.52, appears to obligate the accounting authority -- to some limited degree -- to pay outstanding accounts. In proposed rule Section 3.52, the Commission indicates that it retains the right to "direct the accounting authority to pay" the foreign administration. Together these provisions seem to obligate the accounting authority, at least within the context of the Commission's proceedings, to cover the charges of their maritime radio customers.

COMSAT believes that the Commission should clarify the issue even further by making it clear that the accounting authority is a guarantor of payment. In taking on this role, accounting authorities will be motivated to improve their credit verification procedures and will become jointly liable with the maritime license for the service charges incurred.

In addition to these broad points, COMSAT requests that the Commission clarify its audit authority under Section 3.49 of the proposed rules to describe the kinds of events that could trigger the audit process. If the Commission also were to modify the annual reporting requirements in Section 3.60(d) consistent with COMSAT's proposals for additional evidence of financial

responsibility as described above, then the Commission would be able to identify certain financial thresholds at which an audit may become necessary.

At present, the proposed annual reporting rule only requires that information regarding the number and dollar amounts of settlements be provided to the Commission. NPRM, Appendix I, Section 3.60(a). A broader reporting requirement would give the Commission more information upon which to assess the financial health of an accounting authority and to determine what changes it is undergoing in the marketplace.

We also believe reporting should be more frequent than annually. If an entity files a report six months after the end of the reporting year, this can be too late to take corrective action to protect service providers. We recommend quarterly reports filed within one month of the end of each quarter, showing an aging of the liabilities. Such action would enable creditors to determine if they are at risk.

### **III. Enforcement Measures Available to the Commission**

COMSAT supports the Commission's detailed proposals for the enforcement mechanisms it will implement to oversee the accounting authority function. These mechanisms include: the power to investigate complaints about accounting authorities; to issue sanctions and warnings; and to take further enforcement measures such as forfeiture, suspension or cancellation. NPRM, Appendix I, Sections 3.70-3.76. From the length of the list of



enforcement mechanisms described in Appendix I, it is evident that the Commission has spent considerable time in developing these proposals and that it recognizes the significance of its oversight responsibilities in this area.

COMSAT would like to propose two additional rules to supplement the enforcement functions of the Commission. First, as indicated above, the Commission should consider making the accounting authority a guarantor of payment for valid charges. While the Commission's proposed Rule Sections 3.44 and 3.52 appear to hold the accounting authority responsible for payment under the Commission's rules, the broader standard requested by COMSAT would make the accounting authority jointly and severally liable with the ship station licensee for payment of maritime radio service charges.

In addition, the Commission should consider imposing a jurisdictional requirement on foreign-based accounting authorities responsible for handling the accounts of U.S. vessels. Such a rule would require that foreign-based accounting authorities which desire to handle U.S. traffic be subject to the jurisdiction of the courts of the United States. This provision would ease the burden of debt collection for the maritime service provider and its customer.

#### **CONCLUSION**

COMSAT supports the Commission's efforts in this proceeding to establish rules for the licensing and qualification of

accounting authorities, to describe their settlement responsibilities, and to ensure the enforcement and integrity of their settlement operations. COMSAT appreciates this opportunity to provide its comments on the proposed rules and urges the Commission to adopt the clarifications and rule modifications suggested herein.

Respectfully Submitted,

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